

### **REMARKS**

Examiner Bui has rejected the originally filed claims 1, 9, 14, 20 and 25 of the present application. For the reasons that follow, applicants respectfully traverse this rejection of the Examiner. The applicants do, however, wish to extend appreciation to Examiner Bui for the quite detailed review of the claims of the present invention leading to the finding of patentable subject matter of the originally filed claims of the present application and an indication of the allowance of claims 15-19 and of the allowability of claims 2-8, 10-13 and 21-24 if rewritten.

The circular disk does not include a top dresser (but is part of the top dresser). However, the circular disk includes a top (i.e. "the highest point, level or part of something" as set forth in WEBSTER'S NEW COLLEGIATE DICTIONARY ©1975). However, to advance prosecution, claim 1 has been amended to overcome a rejection under 35 U.S.C. § 112.

Claims 2, 7, 8 and 10 have been placed into independent form including all of the limitations of base claim 1 or 9. It is respectfully submitted that claims 2-8 and 10-13 are in condition for allowance for the reasons recognized by Examiner Bui. Such favorable action is respectfully requested.

Assuming that the assignee's prior patent discloses adjustment between first and second ranges of spacings, assignee's prior patent does not disclose or suggest its gate from being prevented from being manually moved inadvertently between the first and second ranges (or that additional manual actuation other than to the gate is required), nor does Examiner Bui contend that it (or Clarke) does. As the structure as recited is not suggested by the prior art and results is advantages as set forth at page 9, line 8 and following the specification of the present application, it is respectfully submitted that the rejection of claims 20 and 25 has been overcome for these separate and independent reasons. Favorable reconsideration is respectfully requested.

It is respectfully submitted that front wall 17 of Clarke would not be considered to be a diverter. Additionally, it is respectfully requested that the Examiner indicate what is the forward end and how that location is intermediate the two locations recited in the claims. In this regard, the fact that wall 17 is below where chaff is introduced into the apparatus does not result in the diverter being intermediate the infeed position and the rearward extent of the circular disk, which the undersigned contends is not.

However, to advance prosecution, claim 1 has been amended to recite that the dressing material is propelled rearward of the spinner and the diverter, with Clarke expressly teaching that ejection rearwardly of the apparatus is prevented (Col. 3, lines 22-25 of Clarke). It is respectfully submitted that the rejection of claim 1 has been overcome. Favorable reconsideration is respectfully requested.

It was indicated in a telephonic conference with Examiner Bui on May 3, 2004 that the Examiner is relying on the portion of wall 17 of Clarke parallel to the tangential portion of wall 16 as extending at different distances into the thickness. In addition to the fact that wall 17 is not a diverter, it does not extend into the thickness of the propelled top dressing. However, to advance prosecution, claims 9 and 14 have been amended in a manner to prevent the Examiner's imaginative reading of the claims. Favorable reconsideration is respectfully requested.

The Examiner has indicated consideration of the documents cited by applicants. By the lack of application of these references and others like them within the classes or subclasses searched, the Examiner apparently recognizes the clear patentability of the present invention over any of the references.

Therefore, since the claims of the present application have been shown to include limitations directed to the features of applicants' broadcast spreading top dresser which are

neither shown, described, taught, nor alluded to in any of the references considered by the Examiner, whether those references are taken singly or in any combination, the Examiner is requested to allow claims 1-25, as amended, of the present application and to pass this application to issue.

In view of the foregoing amendments and the discussion, it is respectfully submitted that all claims are in condition for allowance. A notice to that effect is most earnestly solicited.

### **TELEPHONIC INTERVIEW**

The undersigned wishes to extend appreciation to the Examiner for a telephonic conference on May 3, 2004, explaining what was referred to as “(indicated as A)(see fig. 1)” on the top of page 4 of the Office communication. Although Examiner Bui was not in a position to discuss the merits of the application at that time, Examiner Bui indicated that a telephonic interview would be possible after his vacation. The undersigned hereby formally accepts this invitation in the event that there are any obstacles to the mailing of a Notice of Allowance for this application.

Respectfully submitted,

Scott Kinkead et al.

Dated: May 4, 2004

By: \_\_\_\_\_



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